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Letter dated 7 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Republic of Moldova, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-22989 (E) 080402

Annex

Letter dated 31 December 2001 from the Permanent Representative of the Republic of Moldova to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour of enclosing the report of the Republic of Moldova on the implementation of United Nations Security Council resolution 1373 (2001) (see enclosure).

My Government stands ready to provide the Committee with further reports or information, as necessary or if requested to do so by the Committee.

(*Signed*) Ion **Botnaru**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative to the United Nations

Enclosure

Report on the actions taken by the Government of the Republic of Moldova to implement United Nations Security Council resolution 1373 (2001)

(Chisinau, Republic of Moldova, 26 December 2001)

GENERAL PROVISIONS

The Republic of Moldova has strongly condemned the unprecedented terrorist attacks perpetrated against the United States on September 11, 2001, regarding them as crimes directed not only against the United States, but also as a crime against humanity, a direct challenge to the entire civilization and its fundamental values.

The Republic of Moldova has adhered to the anti-terrorist coalition and supports the efforts undertaken by the USA and the whole international community in fighting against terrorism. Moldova expressed its readiness to participate in this struggle, particularly by fully implementing all relevant resolutions of the General Assembly and of the Security Council, especially Security Council resolution 1373 (2001). The Republic of Moldova is also thoroughly implementing the international conventions against terrorism to which it is a party.

In condemnation of the terrorist attacks carried out on September 11, 2001, the Government of Moldova has taken a series of measures aimed at contributing to the success of the efforts of the international anti-terrorist coalition. Thus, in support of all the relevant resolutions of the UN Security Council and, especially, resolution 1373 (2001), the Government of Moldova has set in motion a mechanism of developing measures and institutions which is aimed to provide implementation of the internationally agreed anti-terrorist objectives.

Being aware of the complexity of the phenomenon of terrorism, the Republic of Moldova believes that for the most efficient outcome of the joint struggle against this scourge it is necessary to eliminate all initial roots and causes of all forms of the violent manifestation of political extremism. Among these hotbeds there are local conflicts, regional crises, separatism and regions controlled by secessionists' forces, which create favorable conditions for money laundering, illegal migration, smuggling, illegal drugs and arms traffic, etc. In other words, separatists' zones represent a safety environment for organized crime and could serve as an asylum for terrorist elements. Therefore this issue, alongside with the others, should be taken into consideration by the UN Security Council and United Nations member states in their common struggle against terrorism.

The purpose of the present Report is to share relevant information on measures being taken or contemplated by the Republic of Moldova to implement resolution 1373 (2001).

Actions taken

Since the events of September 11, 2001, the Republic of Moldova has undertaken the following actions:

1. Permanent Mission of the Republic of Moldova to the United Nations in New York signed on 25 September, 2001 a Joint Statement issued by the GUUAM States concerning condemnation of the terrorist attacks in the USA, as well as a Joint GUUAM – US Statement on terrorism, issued on 14 November, 2001.
2. The Ministry of Foreign Affairs of the Republic of Moldova published on 26 September, 2001 a statement regarding the adherence of Moldova to the International Anti-terrorist Coalition, expressing its readiness to bring all necessary contribution to the struggle against terrorism.
3. The Parliament of Moldova adopted on September 27, 2001 a special resolution on combating terrorism, whereby it expressed the necessity of consolidation of national relevant legislation and strengthening of concerned governmental institutions. This resulted in further adoption of the national Law No. 633-XV of

15.11.2001 on preventing and combating of money laundering, and of the Law No. 539-XV of 12.12.2001 on combating terrorism.

4. Moldovan Prime Minister signed on September 28, 2001 in Moscow a Joint Statement of the Heads of Governments of the CIS member states on the regional anti-terrorist co-operation.
5. The Moldovan National Supreme Security Council adopted on 6 October, 2001 Decision No. 02/5-03-02 on the support of the Anti-terrorist Coalition. This document reiterated, inter alia, the Government's resolve to establish relations of co-operation with all countries – members of the Coalition, to adhere to the relevant international conventions on combating of terrorism. The Decision also confirmed the permission for overflights and landing on national airports for any aircraft involved in anti-terrorist actions.
6. The Republic of Moldova signed on 26 October, 2001 in Antalya, Turkey a Statement of the Ministers of Foreign Affairs of the Organization of the Black Sea Economic Co-operation (BSEC) member states on joint measures in combating of international terrorism.
7. The Ministry of Foreign Affaires issued on October 29, 2001 a circular instruction addressed to all Moldovan diplomatic and consular missions abroad, regarding pledging Moldova's co-operation with other countries on fighting international terrorism, particularly requesting information on their national legislation and proper experience in this view.
8. The Government of the Republic of Moldova issued on November 1, 2001 a circular instruction concerning Guidelines on the Implementation and Proposals on the Implementation of the Security Council resolution 1373 (2001).

SPECIFIC MEASURES

Operative Paragraph 1

Sub-paragraph (a) – In its effort to prevent and suppress the financing of terrorist acts and terrorist organizations, the Ministry of Foreign Affairs has conveyed to the Ministry of Finance, the National Bank of Moldova and Information and Security Service of Moldova an urgent request of the USA Embassy in Moldova on blocking terrorist financial assets and implementing UN Security Council Resolution 1333 (2000). The above mentioned agencies were also provided with the current list of designated foreign terrorist organizations, lists of known individuals and entities associated with the terrorist attacks of September 11, 2001, and a questionnaire of the US Treasury on freezing concerned banking assets. During the follow-up investigation three personal accounts were discovered in one of the commercial banks in Chisinau, but they were inactive from the last year, having final sold as zero.

On November 15, 2001 the Parliament of the Republic of Moldova adopted the Law No. 633-XV on preventing and combating of money laundering, which put bases of preventing and fighting against the phenomenon of money laundering and defines principal notions in this matter. According to the Law provisions, the General Prosecutor's Office of Moldova effects its execution. Less then a month after the adoption of the Law special forms were drafted for declaring of suspicious transactions or those which outrun the limited amounts.

Sub-paragraph (b) – According to the latest completion of the Criminal Law, adopted by the Government on December 12, 2001, a new Paragraph – No. 63-1 – was added: "Financing or material support of terrorist acts":

"Offering or intentional collecting of means through various methods, direct or indirect, by citizens of the Republic of Moldova or other countries' citizens situated on the territory of the Republic of Moldova, with the aim of utilization of these means, or admission that these means will be used for the committing of terrorist acts – is sanctioned by the detention from 10 to 25 years with confiscation of means designated or used for the crime committing."

According to the Par. 2 of the Law on combating terrorism, one of the terrorist actions is considered as "financing of a terrorist organization or group, or providing them with other assistance". According to the Par. 22 of the same Law, "persons which were found guilty in committing of terrorist activity are responsible under legislation in force". Terrorist activities are charged by the Paragraphs 63-65 of the national Criminal Law.

At the same time, the Law on combating of terrorism, in its Par. 24 contains provisions on the responsibility of organizations for carrying on terrorist activities. Thus, "(1) Organization is considered as a terrorist one and is subject for liquidation only on the base of a Penal Court Decision. In case of the recognition of an organization as a terrorist one, all its property is confiscated for the benefit of state. (2) In case when a judicial instance recognized an international organization registered abroad as a terrorist one, its activity on the territory of the Republic of Moldova is forbidden, its office, branch or other representation is liquidated, and all premises and property are confiscated for the benefit of state".

Sub-paragraph (c) – According to the Par. 4 of the Law on preventing and combating of money laundering, "organizations which execute financial operations are forced... to suspend, under a decision of the General Prosecutor's Office, fulfillment of the suspicious financial operations for the period of 5 days, and regarding to those limited – till the adoption by the General Prosecutor's Office or by a Penal Court of a special decision on the concerned operation. In cases when a preliminary information is not possible, they have to inform the General Prosecutor's Office about suspicious or limited operations immediately after their performing".

Sub-paragraph (d) – The following acts and procedures are included in the Moldovan national legislation on prohibition of the activities listed in these sub-paragraphs:

1. Law No. 539-XV of 12.12.2001 on combating of terrorism;
2. Law No. 45-XIII of 12.04.1994 on intelligence investigation activity;
3. Law No. 618-XIII of 31.10.1995 on state security;
4. Law No. 619-XIII of 31.10.1995 on state security services;
5. Law No. 633-XV of 15.11.2001 on preventing and combating of money laundering;
6. Criminal Law of the Republic of Moldova;
7. Criminal Procedural Law of the Republic of Moldova.

The existent legal framework constitutes a solid legislative base for preventing, prohibition and punishment of the activities mentioned in this operative paragraph.

Operative Paragraph 2

Sub-paragraph (a) – According to the Par. 2 of the Law on combating of terrorism, terrorist activity also includes "recruitment, equipping, training and using of terrorists". According to the Par. 22 of the same Law, "persons guilty in committing of the terrorist activity are responsible under the legislation in force". Terrorist activities are charged by the Paragraphs 63-65 of the national Criminal Law.

Bearing in mind that elimination of the supply of weapons constitutes an integral element of anti-terrorist strategy worldwide, the Supreme Security Council of the Republic of Moldova has instructed the Ministry of Defense to inspect the security of the storage of arms, ammunition, and explosives. Unfortunately, inspection of the same stocks situated on the territory controlled by the separatists' anti-constitutional regime from the Trans-Dniestrian region of Moldova is impossible. Therefore, the Government of the Republic of Moldova needs international community assistance in withdrawal of Russian armament from this territory, in accordance with the decisions of the OSCE Summit in Istanbul of 1999. International assistance is also needed for inspection of some of the industrial plants in towns of Tiraspol, Bender and Ribnitsa where, according to intelligence sources, several types of modern armament and munitions are still produced and then sold to different conflict zones. Another particular problem represents also so named Unaccounted Equipment Limited by CFE (Conventional Forces in Europe) Treaty, with which the paramilitary forces of the trans-dniestrian secessionists' regime are equipped.

Sub-paragraph (b) – All activities on prevention of terrorist acts are conducted in Moldova in accordance with the provisions of the European Convention on the suppression of terrorism, to which Republic of Moldova became a party on 18.06.1999. After the adoption of the UN Security Council Resolution 1373 (2001) the Ministry of Interior and the Information and Security Service of Moldova have drawn up their institutional plans on preventing terrorist acts. In the context of preventing and early warning of terrorist acts relevant ministries and departments cooperate with their partners from other states. For example, the Government of Moldova has signed

bilateral agreements with governments of Turkey and Hungary on combating organized crime, corruption, terrorism and illegal drug traffic. The Ministry of Interior is a party to the Agreement on Co-operation of the Ministries of Interior of CIS countries on combating of terrorism, signed in September 2000 in Ceoplan-Aty, Kirghizstan.

Sub-paragraph (c) - In order to respect and provide an unavoidable character of the penal punishment, terrorists are extradited in accordance with relevant international conventions, or in conditions of reciprocity and being based on the penal court decision. On 14.05.1997 Moldova has ratified European Convention on Extradition, and on 21.06.2001 – both additional protocols to the Convention. Moldova also has signed a lot of bilateral and multilateral agreements on legal assistance and relationship on criminal law, which settle the procedures of extradition. In cases when foreign citizens or stateless persons can not be extradited or expelled, they will be judged on the territory of the Republic of Moldova in accordance with national Criminal Law.

According to the Constitution of the Republic of Moldova (Par. 19) and to the Law on the judicial statute of foreign citizens and stateless persons in the Republic of Moldova (Par. 3), these persons are obliged to respect the Constitution and other national laws.

Sub-paragraph (d) – Particularly dangerous crimes against the state, inclusively terrorist acts, committed against other states or citizens of other states are considered under the Paragraph 70 of the Criminal Law of the Republic of Moldova, with a punishment of 15-25 years of detention.

In the same time, the Law on combating of terrorism also defines a notion of the international terrorist activity. According to the Par. 2, international terrorist activity constitutes terrorist acts done:

"- by a terrorist, a group of terrorists or a terrorist organization on territories of 2 or more states, causing damages to the interests of these states;
- by citizens of one state against citizens of another state or on the territory of another state;
- in case when as a terrorist, as well as his victim are citizens of the same state or of different states, but the crime was produced outside of territories of these states".

Sub-paragraph (e) - According to the latest completion of the Criminal Law, adopted by the Government on December 12, 2001, previous measures of punishment for commission of terrorist acts of 10-20 years of detention with confiscation of property were substituted by new terms of 15-25 years of detention with confiscation of property.

After the adoption, on 12 December 2001, of the Law on combating of terrorism, the list of crimes, which could be considered as crimes with a terrorist character, was enlarged. Thus, according to the Par. 2 of the Law, crimes with a terrorist character are the following:

"- a crime which is accompanied with an attempt of illegal aircraft capture;
- a crime directed against the safety of civil aviation;
- a dangerous crime which constitutes an attempt on life, body integrity or freedom of internationally protected persons, including diplomatic agents;
- a crime aimed to the taking of hostages, kidnapping or illegal sequestration of persons;
- a crime committed with use of bombs, grenades, missiles, machine guns, by envelopes or parcels the use of which represents danger for persons;
- an attempt to commit one of the above mentioned crimes, or complicity to them or to an attempt to commit them".

Sub-paragraph (f) – See information on sub-paragraph (b) on international cooperation.

Sub-paragraph (g) – To prevent the movement of terrorists through border controls, the border defense measures have been increased since September 24, 2001, in accordance with the Decision of the National Supreme Security Council No. 02/5-03-01 on illegal migration and its impact on the national security. The border troops at all sections of the national border (except the Eastern one which is under control of the separatist anti-constitutional

Trans-Dniestrian regime) have upgraded their preparedness to increase defenses in cases of emergency. The above-mentioned Decision and the further one with the same subject, No. 02/5-03-03 of October 26, 2001 instructed all relevant governmental institutions and agencies to tighten the immigration control and control on import of goods and services at all border checkpoints. The Department of Border Troops has installed a computerized network at all border checkpoints, provided with a database of terrorists and persons under international search evidence. The database is regularly updated in co-operation with the National Interpol Office. The Ministry of Foreign Affairs coordinates the issuance of entry visas to Moldova for nationals from probable high-risk regions in co-operation with the Information and Security Service of the Republic of Moldova. Such crimes as counterfeiting, forgery or fraudulent use of identity papers and travel documents are considered in Moldova under the Par. 189 "Forgery of public acts" and Par. 209 "Counterfeiting or fraudulent use of fake documents, stamps, seals and printed forms" of the Criminal Law of the Republic of Moldova.

Operative Paragraph 3

Sub-paragraphs (a), (b), (c) – In view of the suppression of the international terrorism, intensification of the international and interstate co-operation, facilitation of the intensive and accelerated exchange of operational information the Republic of Moldova did already signed the following international instruments:

1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the UNGA on 14 December 1973;
2. International Convention for the Suppression of the Financing of Terrorism, adopted by the UNGA on 9 December 1999;
3. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;
4. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;
5. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988;
6. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;
7. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970;
8. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980;
9. European Convention for the Suppression of Terrorism, done at Strasbourg on 27 January 1977;
10. Agreement on the Co-operation between the CIS member states in combating of criminality, signed at Moscow on 25 November 1998;
11. Agreement on the Co-operation between the CIS member states in combating of terrorism, signed at Minsk on 4 June 1999;
12. Decision on the Financing of the Activities of the Anti-Terror Center of the CIS member states, signed at Minsk on 30 November 2000;
13. Decision on the Anti-Terror Center of the CIS member states, signed at Minsk on 1 December 2000;

Moldova also has signed various bilateral and multilateral agreements on the suppression of the international terrorism.

Sub-paragraph (d) – In the context of further implementation of the resolution 1373 (2001), intensification of international co-operation and acceleration of the exchange of information, the Republic of Moldova intends to adhere, in very near future, to the following international instruments:

1. International Convention against the Taking of Hostages, adopted by the UNGA on 17 December 1979;
2. International Convention for the Suppression of Terrorist Bombings, adopted by the UNGA on 15 December 1997;
3. European Convention on the Legal Validity of the Judicial Decisions on Criminal Cases of 1970;
4. European Convention on the Conveyance of the Legal Procedure on Criminal Cases of 1972;
5. European Convention on the Compensation of the Victims of the Violent Crimes of 1983;
6. Agreement on the Co-operation of the CIS member states in combating of the illegal migration of 1998.

Having no access to the seacoast Moldova can not be a party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, and to the Rome Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done on 10 March 1988.

Sub-paragraph (e) – To implement the international conventions relating to terrorism, the Government has taken certain measures under the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of December 14, 1973. Thus, the Ministry of Interior, in co-operation with the Information and Security Service and the Ministry of Foreign Affaires has strengthened the security of the premises of diplomatic missions and of international organizations located in Moldova.

Sub-paragraphs (f), (g) – On 23 November 2001 Moldova has adhered to the Geneva Convention on the Statute of Refugees of 1951 and the Protocol on the Statute of Refugees of 1967. Now, a national Law on the Statute of Refugees is in the process of preparation, where all legal and administrative procedures relevant to these sub-paragraphs are expected to be stipulated. Actually, all the requests from asylum seekers are thoroughly checked by the competent public administration institutions. According to the Par. 24 of the draft of the above mentioned Law: "The statute of refugee can not be granted to a foreigner which:

a) committed a crime against peace, humanity or a war crime as it is considered by the international conventions to which the Republic of Moldova is a party;
b) committed intentionally on the territory of the Republic of Moldova, before or after his (her) request for asylum, a crime which is charged by the Criminal Law with a penal punishment of more then a 3 years of detention, or committed outside the country a dangerous crime under the common law;
c) committed an action contrary to the UN Chart;
d) represents, through his (her) behavior or membership of a certain organization or group, a threat to the national security and/or public order.".

REQUEST FOR ASSISTANCE

The Government of the Republic of Moldova believes that in course of the implementation of Security Council resolution 1373 (2001) Moldova would need advise and technical assistance, especially with regard to the training needs, requests of special equipment, access to the modern international database on persons, groups and organizations involved in terrorist activities.

If the CTC would need the texts of the Moldovan legislation and administrative acts mentioned in this reports, it could be provided through the Moldovan contact point.

The Government of Moldova is prepared to work with the Member States, the United Nations, including the CTC of the Security Council, to fight any and all manifestations of international terrorism.

Annex

REPORT
of the National Bank of the Republic of Moldova on measures of preventing of the financing of terrorist acts and terrorist organizations
(26 December 2001)

At present the banking legislation foresees provisions on fighting and preventing money laundering, provided in art. 23 of the Law on Financial Institutions (LFI).

According to the mentioned article, banks must not hide, convert or transfer money or other values, knowing that these come from criminal activities, in order to hide their illegal source nor assist individuals involved in such activities so to avoid legal consequences of their actions.

At the same time banks must inform the competent authorities on the facts, which denote that money or other values originate from criminal activities, in compliance with the legislation in force.

NBM developed a range of regulations on the supervision and regulation of banks' business, which provide prudential measures and require banks to act in compliance with the legislation in force and to respect the art. 23 of the LFI.

Thus, the National Bank of Moldova has developed and approved the Recommendations on the internal control systems in commercial banks on November 9, 1998.

One of the main goals of this paper is to ensure the respect of the legislation and the regulations in force by financial institutions, including when effecting transactions on customers' bank accounts.

In compliance with the mentioned Recommendations banks must develop internal control procedures in all business areas, including:

- Internal policies on functions, obligations and responsibilities of the personnel, the reporting and communicating lines;
- Policies, practices and accounting procedures;
- Policies on the daily operational control procedures, computerized and manual, the allowed limits, the documentation on the book keeping and the control systems;
- Identifying, reporting policies and solving the found breaches;
- Staff training programs on the implementation of internal policies, etc.

In compliance with the Manual on the on-site controls, approved by the NBM on February 12, 1999 there were established procedures applied by the NBM staff within the on-site controls. In compliance with this Manual the supervisors must verify whether banks are applying appropriate principles for determining the customers' identity and designate particular compliance staff. Banks must develop and implement due diligence principles, considering their competence and the primary documents already in place at the bank. Within the supervision process and the on-site controls the NBM checks the existence and appropriateness of internal programs on preventing money laundering, which include internal control policies and procedures, as well as staff training programs. The internal program on preventing money laundering allows analyzing and assessing promptly the activities that may have illegal origin.

In case of failing to implement and obey these policies, as well as failing to report the suspicious transactions to the law enforcement authorities, the NBM imposes remedial measures and submits the corresponding information to the law enforcement authorities. As a good example could serve the recent measures imposed by the NBM on certain banks, which require banks to implement concrete procedures of determining suspicious operations, to designate certain individuals that would report such operations etc. At the same time the NBM has warned the banks' administration and it has suspended certain activities (foreign exchange transactions)

of these banks that were find to be risky, and has submitted the concerned materials to the General Office of Public Prosecutor and the Ministry of Internal Affaires.

Furthermore, in order to improve the internal control systems of banks, currently the NBM is drafting a Regulation intended to detail the necessary procedures to be taken by banks in order to comply with the Law on the prevention and fight of money laundering. At present are improved the NBM policies on remedial measures and sanctions enforced by the NBM against commercial banks in case of failure to comply with the prudential requirements.

At the same time on 20.01.2000 entered in force the NBM Regulation on opening and closing bank accounts that has replaced for supervisory reasons a former NBM regulation of 23.07.92. These standard acts regulate the ways of opening, modifying and closing bank accounts in Moldovan Lei and/or foreign currency at commercial banks, including the opening of current accounts for resident and non-resident legal entities, the opening of current accounts for resident and non-resident individuals, the opening of deposit accounts and "Loro" accounts. Each legal entity or individual may open several accounts in Moldovan Lei or foreign currency in any bank of Moldova regardless its administrative-territorial location, by submitting the necessary documents for opening the respective accounts and following the legal framework.

The documents that must be submitted when opening an account should be kept in separate files and should allow the bank to establish the identity of its customers. Thus, when opening an account must be submitted the identifying documents, the papers that confirm the right to perform business activities, the IRS registration certificate, the registration certificate at the State Registration Chamber, the authorized persons to manage the entity's business, the foundation agreements, the by-law, the license, the central bank's authorization of the corresponding country when opening bank accounts for a foreign bank etc. Within the performed on-site controls during this year there were found certain failures to comply with the mentioned regulation at three examined banks and there were imposed corrective measures.

Regarding the statement that the NBM does not verify the good reputation of investors and their proper juridical files we would like to mention the following.

Art. 15 of the Law on Financial Institutions and the NBM Regulation on holding significant interest in banks' capital from November 29, 1996 provides that the transfer of a share in the bank's capital is allowed only with the written permission of the National Bank, if as a result a single person or a group of related persons will hold directly or indirectly a significant interest in the bank's capital. Up to November this year a significant interest was considered to be 10 % and more. In order to strengthen the banking supervision and take into account the EU Directive 2000/12/CE of the European Parliament and of the Council of March 20, 2000 relating to the taking up and pursuit of the business of credit institutions there were operated appropriate modifications to this law and it was established an additional requirement to obtain the NBM's permission in case when the increase of such interest shall attain or exceed the limits of 25%, 33% and 50%. At present there are under preparation the modifications of the Regulation on holding significant interest in the bank's capital, in order to implement these legal provisions within the supervision process.

Thus, the NBM, based on these regulations, grants the written permission only if it is completely sure that the bank shall fulfill all the requirements of the Law on Financial Institutions and the requirements in force, e.g.:

- The good reputation of the applicant and of its administrators, including within its business or professional activity for the last ten years;
- The source of money used for acquiring shares;
- The lack of penal antecedents of applicants and the presence of a proper juridical file;
- The report and the independent audit firm's opinion as well as the annual audited financial reports for the last three years, etc.

In case of failure to comply with the requirements set in the NBM Regulation on holding significant interest in the bank's capital (including the failure to comply with the above mentioned requirements), the NBM refuses the application to hold a significant interest in the bank's capital. Thus, during 2000 – 2001 NBM has analyzed

six applications to hold significant interest in a bank's capital, one of which was rejected because of non-compliance of the potential shareholders with the prudential criteria of the NBM.

At the same time, in compliance with the Regulation on banks' licensing the NBM approves only those shareholders, which background and financial situation correspond to the mentioned criteria, and create sufficient prerequisites for a prudent functioning of the bank in compliance with the legislation in force. Moreover, the ownership structure and the origin of the initial capital are thoroughly examined within the licensing procedure.

After issuing the NBM Regulation on holding significant interest in the bank's capital (on 29.11.1996), the NBM systematically examines the banks' shareholders within the performed on-site controls in order to establish whether they are related or not and their compliance with the art. 15 of the Law on Financial Institutions and the Regulation on holding significant interest in the bank's capital.

In case of noticing a failure to comply with the mentioned requirements, the NBM imposes sanctions and remedial measures in order to bring to full compliance the banks' business with the legislation in force and the NBM regulations. For example, at present there are in force the remedial measures taken against two banks on their significant shareholders. Moreover in case when the transaction on transferring a significant interest in a bank's capital was effected without the written permission of the NBM, this transaction is not valid and thus it is refused the registration of modifications to the bank's statute and the change of capital, the shareholders' change and their interest in the bank's capital, etc.

For example, in 2000 within the complex controls in a certain commercial bank there were found a number of groups of connected parties that hold significant shares in the bank's capital without the NBM permission. As a result, the NBM has obliged the bank to conform its activity to the NBM requirements and obtain the NBM approval of those shares or to replace the named quotas, thus the NBM has refused the registration of the share issuance and correspondingly the modification of capital and shareholders' interests in the bank's capital till the fulfillment of these NBM requirements. Another example of enforced measures of the NBM in this area is the approval by the Supreme Court of Justice on 5.12.01 of the enforced NBM requirements on significant interests that were not fulfilled because the named bank's management refused to comply.

Referring to the rules of keeping the banks' documents related to their business we would like to mention that beside the general established rules by the State Archive for all enterprises, at present it is in force the official policy of the NBM of 25.10.97 on the banks' files, which determines the terms for keeping the documents related to the identity of customers and their transactions. Thus, there are provided requirements on keeping the documents related to the credit portfolio for 5 years; keeping the documents of founders and the money placed in the banks' capital – on a permanent basis; the daily documents – 3 years; book of customers' accounts – 5 years etc.

It is necessary to mention that all the regulations of the NBM that refer to the anti-money laundering were developed with the assistance of foreign advisors (IMF, Barents Group – KPMG Consulting – USAID, DeNederlandsche Bank, GTZ etc.) and aim to the compliance of the banking supervision with the "Core principles of the effective banking supervision" of the Basel Committee.

Recently (in May 2001) at the NBM's request on February 5, 2001 addressed to the USAID, it was obtained the technical assistance and it was effected the assessment of the NBM's activity in compliance with the Core Principles Methodology of the Basel Committee by the Barents Group.

Thus, Barents Group has assessed the NBM's compliance, including with the 15th principle, which refers to the prevention of money laundering. After the evaluation it was mentioned that the NBM examines the existence and the adequacy of banks' policies on: preventing and finding criminal activities or frauds; establishing the identity of customers and of those that act on their behalf; identifying the suspicious transactions; determining the individuals with high decisional powers; reporting to the bank's management the suspicious transactions; reporting to the competent authorities; sanctioning the personnel in case of failing to comply with these procedures; performing the internal control by the auditing committee of the bank. In case of absence of such procedures that include at least the requirements mentioned above, the NBM requires banks to develop and implement such procedures.

After assessing the NBM's compliance with the 15th principle it was noticed that 2 of the 11 essential criteria provided in this principle are fully respected by the NBM, seven of them are partially fulfilled and two are not respected.

It is necessary to mention that those 2 not respected criteria refer to the obligation of banks to report the suspicious activities that essentially affect the bank's stability or reputation to the NBM, and the fact that laws, regulations and/or banks' policies ensure that a member of staff who reports suspicious transactions in good faith to the dedicated senior officer, internal security function, or directly to the relevant authority cannot be held liable. However the NBM takes actions in order to comply with these two criteria. Thus, the commercial banks were obliged to submit to the NBM the information on suspicious transactions that could lead to an essential negative influence on the bank's financial situation (e.g., banks are required to report on a monthly basis the transactions that could essentially influence their financial situation). The internal policies of banks provide the compliance personnel. At the same time the labor legislation provides certain sanctions that may be imposed on such individuals in case of failing to fulfill their obligations and the banking legislation provides sanctions enforced on bank's management in case of failure to fulfill the legal provisions and the prudential principles established by the NBM.

Referring to those 5 additional criteria provided in the 15th principle that refer to the presence of a specific law on anti-money laundering, the training of the banks' personnel in order to respect this law, the obligation of the supervisory authority to submit the information on suspicious transactions and criminal activities established as such according to this law, these criteria were considered to be not applicable at that time because it was not yet approved the law on fighting and preventing money laundering. However, I would like to mention that till present the legal framework did not allow to widely implement the mechanism of preventing and fighting against money laundering, because there were not yet established the features of the suspicious transactions, the appropriate authority to receive and process the respective information. This problem was solved recently, as on November 15, 2001 it was approved the Law on preventing and fighting against money laundering, which describes the parameters that may precisely determine the suspicious transactions and establishes the authority in charge (The General Office of Public Prosecutor) of receiving and processing the information. Recently, in order to implement this law, including the drafting of the reporting blank on suspicious transactions, the General Office of Public Prosecutor has started the formation of a work group in which participate two of the NBM's experts.

In this relation we would like to mention that considering the approved law at present we are working on the improvement of requirements on the internal control systems of banks and thus, it was developed the draft NBM Regulation on preventing and fighting against money laundering by commercial banks and at the same time we are improving the NBM's policies on the on-site controls as well as the enforced sanctions on banks. Additionally, we would like to mention that the named law clearly provides the training of the banks' staff on preventing and fighting against money laundering, and determining suspicious transactions, reporting such transactions, as well as the responsibilities of the proper authorities, including the NBM's attributions for submitting the information to the General Office of Public Prosecutor about the suspicious and criminal activities, effected through commercial banks.

Within this context I would like to mention that the current banking and financial legislation provides stipulations that regulate banking secrecy: the limits of banking secrecy are set in Art. 22 of the Law on Financial Institutions. According to this Article, the present and past administrators, employees and agents of a bank are required to keep secret, and not to use for personal gain or gain by other that the bank that they serve or have served, or permit to be examined by others, any information that they obtained in the course of their service to the bank.

At the same time, the information classified as commercial secret may be disclosed to NBM, NBM inspectors, accounting experts, the Court of Accounts, judicial and investigating authorities. Thus, the Law provides the access of judicial and investigating authorities to the banking and financial data and grant them the possibility to find financial means determined as object of money laundering operations.

Further on, Art. 36 of the Law on the National Bank of Moldova stipulates provisions on holding information considered as commercial secrecy obtained during the performance of NBM duties. Simultaneously,

this Article provides that data classified as NBM commercial secret may be disclosed in certain cases, including at the request of judicial authorities and of foreign supervision authorities of financial institutions.

According to the above-mentioned Laws, the information determined as commercial secret is submitted in accordance with the current relevant legislation. The Code of Criminal Procedure (Art. 90) provides the backgrounds and reasons of trial institution, including: declarations, letters, notifications, and publications in mass media that denote signs of infraction. Thus, the information submitted systematically by the National Bank and the commercial banks of the Republic of Moldova allow the investigatory authorities to open trial records and, when necessary, to require from commercial banks any information relevant to these records.

The Law on Prevention and Control of Money Laundering of 15.11.2001 derogates to the legislation of commercial secrecy and grants the investigatory authorities and the fiscal and financial control bodies the right to require from commercial banks any documents and information on clients' transactions if there are signs of suspect operations.

With the view to implementing the stipulations of above-mentioned legislation, the commercial banks and the National Bank closely cooperate with investigatory, judicial and other authorities involved in the process of money laundering preventing and control. More detailed information on NBM collaboration with these bodies follows.

Our arguments in this regard are as follows. In conformity with the stipulations of the Activity Plan of the Banking Prudential Supervision Development Program for 1999 worked out with the IMF assistance, on 27.04.99 the National Bank addressed to a number of state authorities with the view to establishing formal collaboration relationship in the filed of supervising the fulfillment by commercial banks of legal stipulations, including the control on integration in the banking system of persons with doubtful past (criminal or other) and of money means gained following illegal operations. Thus, we have addressed to the following institutions: the Supreme Court of Justice of the Republic of Moldova, the Ministry of Internal Affairs of the Republic of Moldova, the Central National Bureau "Interpol", the Economic Court of the Republic of Moldova, the Principal Fiscal State Inspectorate.

In this letter, with the view to preventing illegal intrusion in the banking system of the Republic of Moldova of legal and natural persons, residents or non-residents of the Republic of Moldova, and to adopting due decisions on banking licensing, bank administrators' acceptance and granting of permission to hold substantial share in banking capital, the National Bank of Moldova required the assistance of the above-mentioned institutions in providing information on investigated persons on the followings: evidence of criminal antecedents; participation as subject at insolvability processes and further non-exemption from debt repayment; legally determined withdrawal of the right to sit in the Council; evidence of financial fraud; evidence of tax avoidance; any other information held by these authorities on the reputation of the investigated person in business circles; and evidence of financial and administrative problems at previous working places.

The readiness and availability to cooperate was expressed by the Ministry of Internal Affairs, the Central National Bureau "Interpol" and the Principal Fiscal State Inspectorate.

At the same time we would like to inform you that on 23.05.2001, following the implementation of the Law on Enterprises' State Registration, the National Bank issued a letter to the Chamber of State Registration in which proposed for acceptance a collaboration procedure to register financial institutions, their branches and representative offices and to modify the documentation of banking business establishment. This measure is directed towards the settlement of an efficient cooperation that would allow both authorities to supervise and to prevent the illegal intrusion in the banking system of natural and legal persons.

NBM is also cooperating with all the state authorities during the controls of commercial banks and submit relevant information at state request or on own initiative.

For example, we may mention the cooperation between the National Bank and the Ministry of Internal Affairs of the Republic of Moldova in the period of 2000 to 2001.

Thus, NBM performed 8 thematic controls at the commercial banks of the Republic of Moldova upon the request of MIA subdivisions. The copies of these reports were sent to the address of all mentioned institutions. On NBM initiative and with supervision purposes, 16 copies of these documents were sent to the Ministry of Internal Affairs and the Department of Organized Crime Control. NBM sent also other information on any violation of current legislation by bank managers, including the performance of suspicious large transactions by these banks' clients.

Within the examination of documents submitted with the view to approving candidates for the position of commercial bank administrator in accordance with the Regulation on Requirements towards Administrators and upon NBM request, the Ministry of Internal Affairs provided information about judicial records on 179 persons. The Central National Bureau "Interpol" of MIA furnished upon NBM request data about evidence of financial fraud and tax avoidance, evidence of previous criminal antecedents, evidence about the participation as subject at insolvability processes and further non-exemption from debt repayment on 7 persons non-residents of the Republic of Moldova.

NBM furnished to different units of MIA and of the Department for Corruption and Organized Crime Control of MIA the copies of all statutes and their modifications, the internal regulations and the lists of commercial banks' administrators. Upon MIA request, NBM has examined the modifications and completion of two laws and of two regulations worked out by MIA and informed MIA about related ultimate results. Also upon MIA request, the National Bank delegated two employees to provide consulting services in examining a number of doubtful transactions with state securities deposited at a commercial bank from Moldova.

NBM employees were permanently present at the meetings of MIA working groups and of other state institutions with the view to consulting on issues related to money laundering.

The National Bank has also efficiently cooperated with other legal authorities of the Republic of Moldova, including the General Prosecutor's Office and judicial bodies.

Within this context, I would like to mention that on November 15th, 2001 the Parliament adopted the Law on Money Laundering Control and Prevention no. 633-XV. This Law sets the procedure to perform and register limited and suspicious financial operations, the capacities of authorities responsible for money laundering control and the international cooperation in this field. The Law obliged the commercial banks as follows: to work out internal control procedures and measures, including the appointment of bank managers responsible for the conformance of bank policies and procedures to this Law; to work out a continuous program of staff training; and to report to the Central Prosecutor's Office about suspicious or irrational operations. The Law clearly states the characteristics of suspicious transactions, allowing thus the banks to independently determine whether performed operations may be classified as suspicious ones. When registering signs of such operations, the banks are obliged to fulfill a special form, indicating all the data about the relevant client and submit this form to the General Prosecutor's Office. The Law determines also the attributions of authorities that control the legitimacy of operations performed by financial institutions. The Law enlarged the responsibilities of different institutions, including NBM, involved in money laundering prevention. Thus, all these institutions must submit to the General Prosecutor's Office information on legal and natural persons practicing money-laundering activities and on suspicious transactions found out during controls.

Currently the National Bank works out internal and external procedures targeted to implement the Law stipulations.

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GOVERNOR